



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2020-0729; FRL-10021-69-Region 5]

Air Plan Approval; Michigan; Part 9 Miscellaneous Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to Michigan's State Implementation Plan (SIP). The submittal, by the Michigan Department of Environment, Great Lakes, and Energy (EGLE) on December 18, 2020, incorporates administrative changes to Michigan's Air Pollution Control Rules, Part 9, "Emissions Limitations and Prohibitions - Miscellaneous". This revision will continue with the consolidation of all the adoption by reference materials used by EGLE in other rules in Michigan's SIP into one location in Part 9.

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2020-0729 at <http://www.regulations.gov> or via email to blakley.pamela@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not

submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **"FOR FURTHER INFORMATION CONTACT"** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Charles Hatten, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6031, hatten.charles@epa.gov. The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

I. What did EGLE submit?

On December 18, 2020, EGLE submitted to EPA a request to revise Michigan's Air Pollution Control Rules, Part 9.

Specifically, the state requested that we approve a revision to R 336.1902, Adoption of standards by reference. The current SIP-approved version of R 336.1902 includes material that is adopted by reference and is cited by EGLE in other SIP-approved rules. The adopted by reference materials include, but are not limited to, the Code of Federal Regulations, emission test methods, and other technical documents. On March 30, 2018 (83 FR 30571), EPA approved the consolidation of adopted by reference materials in Part 9, R 336.1902 into the Michigan SIP.

II. EPA's Analysis of EGLE's Submittal

In the December 18, 2020 submission, EGLE revised R 336.1902 to include additional reference materials to maintain consistency between rules contained in the SIP and Michigan's Air Pollution Control Rules. The changes to Part 9 are administrative, revising R 336.1902 to include more adoption by reference material aforementioned by adding the following subrules to R 336.1902: (1) (b) (ii), (1) (b) (vi), (1) (o), (1) (o) (vi), (1) (r) to (u), (2) (d), (3) (b), (4) (g) to (k), (6) (a) to (d), and (10) (See tables 1 - 14 of EGLE's submission for details). Also, the changes to R 336.1902 reflect the most up-to-date version of the materials adopted by reference currently approved in Michigan's SIP.

Section 110(l) Analysis of the State's Submittal

EPA is proposing to approve the revision to Part 9, as discussed above because it meets all applicable requirements under the Clean Air Act (CAA). Furthermore, EGLE has shown that

the revision to Part 9 does not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable CAA requirement, consistent with section 110(l) of the CAA.

Under Section 110(l) of the CAA, EPA shall not approve a SIP revision if it would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171 of the CAA) or any other applicable requirement of the CAA. The proposed SIP revision will not interfere with any applicable CAA requirements based on the technical analysis submitted by EGLE. In Part 9, R 336.1902 contains materials that are adopted by reference and are strictly administrative in nature. Thus, the revision will have no effect on actual or allowable emissions.

III. What action is EPA taking?

EPA is proposing to approve the revision to Part 9 into Michigan's SIP, as submitted on December 18, 2020.

IV. Incorporation by Reference.

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Michigan's Air Pollution Control Rules, Chapter 336, Part 9, R 336.1902 "Adoption by reference", effective on November 18, 2018. EPA has made, and will continue to make, these documents generally available through www.regulations.gov and at the EPA Region 5 Office (please

contact the person identified in the "**FOR FURTHER INFORMATION CONTACT**" section of this preamble for more information).

V. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in

Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Nitrogen dioxide, Ozone, Volatile
organic compounds.

Dated: March 22, 2021.

Cheryl Newton,
Acting Regional Administrator, Region 5.

[FR Doc. 2021-06165 Filed: 3/24/2021 8:45 am; Publication Date: 3/25/2021]